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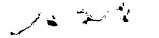
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/019,058	12/27/2001	Kiyotaka Yasuda	PCT-MI0105-US	8678
466	7590 10/16/2003		EXAMINER	
	THOMPSON	JENKINS, DANIEL J		
745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			ART UNIT	PAPER NUMBER
AKLINGIO	, TA 22202		1742	
			DATE MAILED: 10/16/200	3

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.		Applicant(s)
Office Action Summary		10/019,058		YASUDA ET AL.
		Examiner		Art Unit
		Daniel J. Jenkins		1742
The MAILING DATE Period for Reply	of this communication	appears on the cove	r sheet with the co	rrespondenc address
A SHORTENED STATUTC THE MAILING DATE OF T  - Extensions of time may be available after SIX (6) MONTHS from the ma  - If the period for reply specified abov  - If NO period for reply is specified ab  - Failure to reply within the set or extension of the set of extension of the set of extension of the set of	HIS COMMUNICATION AND COMMUNICATION OF THE PROPERTY OF THE PRO	DN. R 1.136(a). In no event, how a reply within the statutory mi- riod will apply and will expire latute, cause the application t	ever, may a reply be time nimum of thirty (30) days. SIX (6) MONTHS from the o become ABANDONED	ely filed will be considered timely. ne mailing date of this communication. (35 U.S.C. § 133).
1) Responsive to com	nunication(s) filed on	04 January 2003 .		•
2a)☐ This action is FINAL	2b)⊠	This action is non-f	inal.	
closed in accordance	n is in condition for all e with the practice un			osecution as to the merits is 53 O.G. 213.
Disposition of Claims				
4)⊠ Claim(s) <u>1-10</u> is/are				
<u></u>	n(s) is/are with	drawn from consider	ation.	. *
5) Claim(s) is/are				
6)⊠ Claim(s) <u>1-10</u> is/are ı	•			
7) Claim(s) is/are	-			
8) Claim(s) are s	ubject to restriction ar	nd/or election require	ment.	
9) ☐ The specification is of	ojected to by the Exan	niner.		•
10) ☐ The drawing(s) filed o	n is/are: a)□ a	ccepted or b) objec	ted to by the Exam	niner.
Applicant may not req	uest that any objection t	o the drawing(s) be he	ld in abeyance. Se	e 37 CFR 1.85(a).
11) The proposed drawing	correction filed on _	is: a)□ approv	ed b)⊡ disapprov	red by the Examiner.
If approved, corrected	drawings are required i	n reply to this Office ac	tion.	
12) The oath or declaration	n is objected to by the	Examiner.		
Priority under 35 U.S.C. §§ 1	l9 and 120			
13) Acknowledgment is r	nade of a claim for for	eign priority under 3	5 U.S.C. § 119(a)	-(d) or (f).
a) ☐ All b) ☐ Some * o	c) None of:			
1. Certified copie	s of the priority docum	ents have been rece	eived.	
2. Certified copie	s of the priority docum	ents have been rece	eived in Applicatio	n No
	from the International	Bureau (PCT Rule	17.2(a)).	d in this National Stage I.
14) Acknowledgment is ma	ade of a claim for dom	estic priority under 3	5 U.S.C. § 119(e)	(to a provisional application).
a) ☐ The translation o 15)☐ Acknowledgment is m		•		
Attachment(s)				
Notice of References Cited (PTC2)  Notice of Draftsperson's Patent     Information Disclosure Statement	Drawing Review (PTO-948)			(PTO-413) Paper No(s) atent Application (PTO-152)
J.S. Patent and Trademark Office PTOL-326 (Rev. 04-01)	Offic	e Action Summary		Part of Paper No. 7



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1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim1-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,372,059. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims contain elemental ranges that overlap that as claimed, and the method of forming contains elements within overlapping ranges.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Jenkins whose telephone number is 703-306-4157. The examiner can normally be reached on M-TH6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 703-308-1146. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Daniel J. Jenkins Primary Examiner Art Unit 1742

dj September 20, 2003